OFFICE OF THE GOVERNOR

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May 12, 2016

The Honorable Thomas E. Perez
Secretary of Labor
US Department of Labor (USDOL)
200 Constitution Ave NW
Washington, DC, 20210

The Honorable Shaun Donovan
Director, Office of Management and Budget
725 17th Street, NW
Washington, DC 20503

Dear Secretary Perez and Director Donovan:

On behalf of the State of Iowa, we write to comment on the USDOL proposed rule related to the Fair Labor Standards Act: Defining and Delimiting the Exemptions for Executive, Administrative, Professional, Outside Sales and Computer Employees.

State governments, local governments, non-profit organizations, educational institutions, and businesses must balance their budgets. That means predictability in both revenues and expenses. In short, states must live within their means. We are concerned about the negative cost and operational impacts the proposed USDOL rules would have on the State of Iowa budget as an employer and on our State's Regents universities as employers – Iowa State University, University of Iowa, and University of Northern Iowa. Although the focus of this letter is on State entities as employers, I know that scores of other employers across Iowa share similar concerns, including private colleges, community colleges, and businesses.

In total, we estimate that the USDOL proposed rule would add $19.1 million of additional costs on the State of Iowa government and our public universities in the first year – a burden that would be carried by Iowa's hardworking taxpayers, parents, and students. And in the case of the University of Iowa hospital system, that burden will also be carried by medical patients, increasing the cost of health care delivery in the State of Iowa. Quite simply, USDOL's proposed rule would be an unfunded mandate upon states. Since a majority of state leaders have no interest in growing the size and cost of state government, USDOL's imposed cost increase will displace other priorities – from education to economic development to water quality to workforce development to improving health outcomes. Cost mitigation measures will range from transfers of individuals from salaried positions to hourly positions, less professional flexibility on overtime use, and perhaps even layoffs.

USDOL's proposed rule more than doubled the overtime salary threshold – a leap so big, it will have significant unintended consequences – both financially and in the delivery of services. Due to the shortcomings in the proposed rule, withdrawal seems appropriate. Short of withdrawal, at a minimum, the following changes should be made:

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- Respect the concept of Federalism and grant state entities an exemption or at least give individual states the authority to adopt or reject the regulation for state employees.
- Decrease the salary threshold to be more in line with previous gradual increases.
- Incorporate market differences in determining the minimum salary threshold to reflect differing labor market rate differences tied to regional cost of living variations.
- Define the minimum salary threshold as a full time rate, to adjust for those employees who may only work on a part time basis.

We strongly urge you to reconsider the proposed rule in light of the direct and negative impact it will have on public employers' ability to provide much needed services to our citizens. Thank you for your consideration.

Sincerely,

Terry E. Branstad

Terry E. Branstad
Governor of Iowa

Kim Reynolds

Kim Reynolds
Lt. Governor of Iowa

cc: Iowa Congressional Delegation
Scott Pattison, Executive Director of the National Governors Association